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By Hand Delivery

October 15, 1998

**RECEIVED**  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

re: **SBC Communications, Inc. and Ameritech Corporation Seek  
FCC Consent for a Proposed Transfer of Control  
CC Docket No. 98-141**

Dear Secretary Salas:

Please find the original and twelve copies of the Comments of the Missouri Public Utilities Commission in this matter. Copies of this pleading are also being provided as detailed in the FCC's Public Notice on this matter dated July 30, 1998. The pleading is also contained in Word Perfect 5.1 for Windows format on an enclosed disk, and a electronic filing will be made with the Electronic Comment Filing System. Please also find an extra copy that I ask you to stamp as filed and return to the messenger for our records.

Do not hesitate to call if I can be of assistance.

Yours truly,

**BIRCH, HORTON, BITTNER  
AND CHEROT**

*Elisabeth Ross / James Lister*  
Elisabeth H. Ross

Enclosures

cc: Cynthia R. Bryant, Esq.

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

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OCT 15 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of Applications for Consent )  
to the Transfer of Control of Licenses )  
and Section 214 Authorization from )

AMERITECH CORPORATION, )  
Transferor, )

To )

SBC COMMUNICATIONS INC., )  
Transferee. )

CC Docket No. 98-141

**COMMENTS OF THE MISSOURI PUBLIC SERVICE COMMISSION**

In a Public Notice released July 30, 1998, The Federal Communications Commission (the Commission) seeks comments in CC Docket No. 98-141 regarding the proposed merger between SBC Communications, Inc. (SBC) and Ameritech Corporation (Ameritech). Although the Missouri Public Service Commission (MPSC) currently takes no position on the merger between SBC and Ameritech, the MPSC raises the following concerns, and reserves the right to comment more extensively in the Reply Comments.

**Barriers to Entry**

The MPSC realizes that large carriers such as AT&T, Sprint and MCI may express concerns regarding barriers to entry for their large companies, but the MPSC is also concerned with the impact of the merger on small companies seeking to compete in the State of Missouri. The Telecommunications Act of 1934 as amended by the

Telecommunications Act of 1996 (the Act)<sup>1</sup>, Section 253, requires states to remove barriers to entry for the provision of interstate and intrastate telecommunications services, and Section 257 of the Act sets forth the procedures by which barriers to entry are to be removed. Further, Section 257(b) states that as a matter of national policy, the Commission is to promote the policies and purposes of the Act. Will the SBC/Ameritech merger impede this objective? Southwestern Bell Telephone (SWBT), a subsidiary of SBC, serves as an Incumbent Local Exchange Carrier (ILEC) in Missouri. Ameritech Communications International, Inc. (ACII), a subsidiary of Ameritech, is certificated as a reseller of basic local service in this State<sup>2</sup>. Upon consummation of the merger, one company, SBC, will profit from two major basic local providers, SWBT and ACII, although at present, ACII only provides basic local service to approximately 390 of its employees in the St. Louis area. ACII is not presently offering basic local service to Missouri=s general public<sup>3</sup>.

Hypothetically, if Ameritech were to expand to become a dominant secondary carrier in the State of Missouri with SWBT as the dominant primary carrier, would this create sufficient market power to impede future entrants and potentially harm small rural providers? Has the fine line between monopolization versus fostering a competitive

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<sup>1</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>2</sup> Ameritech Communications International, Inc., Case No. TA-96-415, Report and Order (February 28, 1997)

<sup>3</sup> In the Matter of the Merger of SBC Communications, Inc. And Ameritech Corporation, Case No. TM-99-76, Tr. 52.

market been crossed? To date, 61 companies hold certificates of service authority to provide basic local service in the State of Missouri. Will future certifications decline as a result of the SBC/Ameritech merger?

In the mergers between SBC/Pacific Telesis Group<sup>4</sup> and Nynex Corporation /Bell Atlantic Corporation<sup>5</sup>, the Commission in its Orders approving the mergers stressed in its analysis under the Doctrine of Actual Potential Competition that the Bell Operating Companies associated with the merging entities did not operate outside their territories at the time of the merger applications. To this end, the SBC/Ameritech merger differs from the previous mergers approved by the Commission. ACII is currently operating in SWBT=s territory, and ACII, at this juncture, plans to continue such operations.

### **Market Power Analysis**

The MPSC realizes that there are several dimensions to the market power analysis associated with determining the validity of the SBC/Ameritech merger. We raise the need to include in the market power analysis an examination of SBC/Ameritech=s potential market share as measured by the volume of traffic rather than the number of customers. It is evident that a large number of customers may still result in a small market share. SBC and Ameritech seek to combine in an effort to: 1) expand their telecommunications service offerings; 2) maintain large and mid-size customers in the in-region markets; 3) expand

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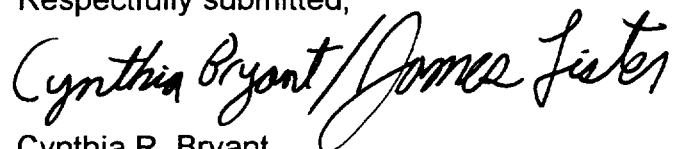
<sup>4</sup> Pacific Telesis Group and SBC Communications, Inc., Memorandum Opinion & Order, 12 FCC Rcd. 2624, 2637 (1997).

<sup>5</sup> Nynex Corporation and Bell Atlantic Corporation, Memorandum Opinion & Order, 12 FCC Rcd. 19985 (1997).

into the thirty largest U.S. local markets outside its incumbent service area; and, 4) enter into fourteen individual cities around the world on a facilities basis to act as a global competitor<sup>6</sup>. Additionally, the analysis should include the penetration of the wireless carriers. It is incumbent upon the Commission to determine if such expansion, measured by volume of traffic, gives SBC/Ameritech an unfair advantage over other companies similarly situated. Or, does this merger place SBC/Ameritech in a position in which it is able to produce a volume of traffic on a scale similar to already existing global competitors?

The MPSC encourages the Commission to consider its concerns when making its determinations regarding the proposed SBC/Ameritech merger.

Respectfully submitted,



Cynthia R. Bryant  
Assistant General Counsel  
Missouri Bar No. 47937

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<sup>6</sup> See generally Description of Transaction, Public Interest Showing and Related Demonstrations of the Merger of SBC Communications Inc. And Ameritech Corporation filed with the FCC on July 24, 1998.

### CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document have been served by first class United States mail, postage prepaid, to all persons listed on the attached service list this 15th day of October, 1998.

  
Cynthia R. Bryant

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